

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06-MSRC-011**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER

TERRY L. HALL, RUSSELL L. STIDHAM,
WILLIAM S. CORNETT & **HARVEY B. CAMPBELL**

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent HARVEY B. CAMPBELL, and the members of the Commission having reviewed the Settlement Agreement filed on May 9, 2006 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:


1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a **“first offense”** as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 11TH day of May 2006.

A handwritten signature in black ink, appearing to read 'DM Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 12TH day of May 2006:

**HARVEY B. CAMPBELL
4567 HIGHWAY 7 SOUTH
BLACKKEY KY 41804-9097**

And by regular mail to:

TERRY L. HALL
1558 HIGHWAY 582
PINE TOP KY 41843-9035

RUSSELL L. STIDHAM
314 MEADOW FORK
MILLSTONE KY 41838-9069

WILLIAM S. CORNETT
342 HOLLY THICKET ROAD
VIPER KY 41774-8353

And by messenger mail to:

JENNIFER CABLE SMOCK
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212
Attorney for OMSL

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601


Bryan Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 06-MSRC-011



COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

VS. SETTLEMENT AGREEMENT BETWEEN OMSL
AND HARVEY B. CAMPBELL

TERRY L. HALL, RUSSELL L. STIDHAM,
WILLIAM S. CORNETT and HARVEY B. CAMPBELL

RESPONDENTS

Comes the Complainant, the Kentucky Office of Mine Safety and Licensing ("OMSL"), and Respondent Harvey B. Campbell ("Campbell"), and hereby state that they have agreed to a settlement of the above styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him, and the cancellation of the hearing as it pertains to him that is currently scheduled for July 13, 2006, Campbell hereby admits that he rode in a man-trip (scoop bucket) loaded with concrete blocks on August 2, 2004, at Consol of Kentucky, Inc.'s Beaver Gap E-3 mine, a violation of KRS 352.150(9), as alleged in OMSL's Complaint. Therefore, Campbell hereby agrees to the following:

1. Campbell agrees to the probation of his underground mine foreman's certificate (#A-248-02), underground coal miner's certificate, MET (#HD-065-05), gas detection certificate (#HD-467-95) and belt examiner's certificate (#HD-017-86) for a period of two (2) years, effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.
2. During this two-year probationary period, Campbell shall comply with all state and federal mine safety laws and regulations. The willful violation by Campbell of any of said

laws and regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his underground mine foreman's certificate for the remainder of the probationary period.

3. Within forty-five (45) days of the effective date of this Settlement Agreement, Campbell must take eight (8) hours of special safety training from OMSL at its Martin District Office.

4. Campbell further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense," as that term is defined at 805 KAR 8:010, Section 1(13).

5. Campbell understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Campbell further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he has carefully considered the Agreement prior to signing it and that he understands and agrees to its terms and provisions.

6. OMSL and Campbell acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

Harvey B Campbell
HARVEY B. CAMPBELL, Respondent
4567 Highway 7 South
Blackey, Kentucky 41801-9097

5-4-06
DATE

Johnny Greene
JOHNNY GREENE, Acting Exec. Dir.
Ky. Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

5-8-06
DATE